IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 335 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LEGAL HEIRS AND REP. OF DECD. DHULAJI JIVAJI

Versus

PARTNERS OF SHIVSHAKTI CORPORATION

Appearance:

MR SUNIL K SHAH for appellants No. 1-3/2

..... for Respondent No. 1,2

RULE SERVED for Respondent No. 1/1-1/7

DELETED for Respondent No. 2/1

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 12/04/2004

ORAL JUDGEMENT

1. The present Appeal From Order is filed against the order passed by the learned Civil Judge (S.D.), Gandhinagar below application Exh.5 in Special Civil Suit no.81 of 1999, whereby the learned trial Judge has granted the order of status quo with regard to the suit

property. The learned trial Judge has passed the order on 23-7-2003, on which date, nobody appeared on behalf of the defendants, but after considering the injunction application, the learned Judge has passed the said order without assigning any reason.

2. This Court has admitted the Appeal From Order on 23-9-2003 and also recorded the submissions made by the learned Advocate appearing on behalf of the appellants that the appellants are in possession and enjoyment of the property in question. The grievance voiced by the opponent was that initially there was no prohibitory order issued by the Court in the year 1999 when the suit was filed. The reply supported by the important document was already there on record and the same ought not to have been ignored totally by the learned trial Judge. Keeping these facts in mind, the appeal was admitted.

3 Despite the service of notice to the respondents, nobody has appeared on behalf of the respondents. Mr. Sunil K.Shah, learned Advocate appearing for the appellants submitted that the trial Court has passed the order of status quo without considering the reply filed by the appellants, and hence, such order of status quo is required to be stayed by this Court.

4. The suit is filed by the present respondents in the year 1999. More than five years have elapsed and yet the suit is still not disposed of. Even the interim application is also decided by the trial Court on 23-7-2002. Looking to the facts and circumstances of the case and after having heard the learned Advocate appearing for the appellants, the Court is of the view that the suit is required to be decided and disposed of as expeditiously as possible. The trial Court is, therefore, directed to decide and dispose of the suit as expeditiously as possible, and preferably, within a period of six months from the date of receipt of the writ of this Court or from the date of receipt of the certified copy of this order, whichever is earlier. If the trial Court is not in a position to dispose of the suit within the period prescribed hereinabove, it is open to the present appellants to move an application before the trial Judge for vacation of the interim relief as the said order was passed admittedly without hearing the present appellants or even without considering the reply and other documents filed by the appellant. If such an application is moved and if the suit is not disposed of, the trial Court will decide the said application in accordance with law and in the light of the documents which are on record.

5. With the above observations and directions, this Appeal From Order stands disposed of.

(K.A.Puj,J.)

stanley-kap.

Civil Application no.6741 of 2003

In view of the order passed in main Appeal From Order, no orders.

(K.A.Puj,J.)

stanley-kap.